

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

RONALD DAVIDSON,

Plaintiff,

v.

R. PEARSON, C. WALTERS,
EDWARD DONNELLY,

Defendants.

**DECISION
and
ORDER**

02-CV-88F

By papers filed February 10, 2005, Defendants moved to compel answers to Defendants' interrogatories (Doc. No. 33). In an affidavit filed March 3, 2005 (Doc. No. 37), Plaintiff opposed the motion by Affidavit of Ronald Davidson, dated February 24, 2005. Specifically, Plaintiff stated that because of a transfer from Elmira to Auburn prison on December 23, 2004 and from Auburn to Shawangunk, his current facility, he was unaware of Defendants' interrogatories.

In a Decision and Order filed June 8, 2005 (Doc. No. 39), Defendants' motion was held in abeyance pending service of Plaintiff's answer within 45 days of service of the Decision and Order. Counsel for Defendants was directed to advise the court by affidavit of Plaintiff's compliance with this direction and the motion would be dismissed as moot. If Plaintiff failed to provide the requested answers to the interrogatories, Defendants were directed to file an affidavit advising the court of Plaintiff's failure and the court would enter an order granting Defendants' motion.

A Declaration in Support of Motion to Compel was filed by Defendants on August 1, 2005 (Doc. No. 40), advising the court that Plaintiff has failed to provide the requested answers to the interrogatories as ordered by the court. Defendants also requested a short extension of the deadlines in the Scheduling Order filed July 20, 2004

to provide Defendants an opportunity to complete discovery and file any dispositive motions.

Based on the foregoing, Defendants' motion to compel filed February 10, 2005 (Doc. No. 33) is GRANTED. Plaintiff shall provide responses to Defendants' interrogatories not later than **September 30, 2005**. Failure to abide by this order may subject Plaintiff to sanctions pursuant to Fed.R.Civ.P. 37(b)(2).

Defendants have shown good cause to amend the July 20, 2004 Scheduling Order; therefore an amended Scheduling Order will be filed separately.

SO ORDERED.

/s/ Leslie G. Foschio

LESLIE G. FOSCHIO
UNITED STATES MAGISTRATE JUDGE

Dated: August 4, 2005
Buffalo, New York

PLAINTIFF IS ADVISED THAT ANY APPEAL OF THIS DECISION AND ORDER MUST BE TAKEN BY FILING WRITTEN OBJECTION WITH THE CLERK OF COURT **NOT LATER THAN 10 DAYS** AFTER SERVICE OF THIS DECISION AND ORDER IN ACCORDANCE WITH FED.R.CIV.P. 72(a).